IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

THE BORLAND LAW FIRM, LLC AND BRETT BORLAND, INDIVIDUALLY Plaintiffs, vs. REVAZ CHACHANASHVILI LAW GROUP, PLLC a/k/a RC LAW GROUP, PLLC AND YAAKOV SHOTKIN, INDIVIDUALLY Defendants.	CIVIL ACTION FILE NO. 1:14-cv-00678-RWS

[P~~ROPOSED~~] ORDER ON PLAINTIFFS' MOTION FOR ENTRY OF DEFAULT JUDGMENT AND MOTION FOR ATTORNEY'S FEES

Pending before this Court is Plaintiffs, The Borland Law Firm, LLC and Brett Borland (hereinafter "Plaintiffs"), motion for default judgment pursuant to Fed. R. Civ. P. 55(b), and motion for attorney's fees (Doc. 9).

For the reasons set forth below, Plaintiffs' motion for default judgment is GRANTED as to Defendants, Revaz Chachanashvili Law Group, PLLC a/k/a RC Law Group, PLLC and Yaakov Shotkin, Individually (hereinafter "Defendants"). Plaintiffs' motion for attorney's fees is also GRANTED.

I. Procedural History.

On March 7, 2014, Plaintiff filed a claim for Declaratory Judgment pursuant to Rule 57 of the Federal Rules of Civil Procedure and 28 U.S.C. § 2201 et. seq., for the purpose of determining questions of actual controversy that presently exist between the parties. (Doc. 1) The action was filed because the Defendants threatened Plaintiff with a lawsuit for alleged violations under the Fair Debt Collection Practices Act ("FDCPA") 15 U.S.C. §1692 et seq. On March 19, 2014, Defendants were properly served. (Doc. 6 & 7) Pursuant to Federal Rules of Civil Procedure Rule 12(a)(1)(A)(i), Defendants had 21 days after being served with the complaint to respond. Defendants Answer to Plaintiffs complaint was due on April 9, 2014. Defendants have failed to file an Answer or otherwise defend against the action. On April 14, 2014, Plaintiffs filed a Request for Clerk's Entry of Default. (Doc. 8) The Clerk's Entry of Default was entered on April 15, 2014 as to both Defendants.

II. Discussion.

A. Default.

Federal Rules of Civil Procedure Rule 12(a)(1)(A)(i) provides in relevant part as follows: "A defendant must serve an answer within 21 days after being served with the summons and complaint. On March 19, 2014, Defendants were properly served with summons and complaint. (Doc. 6 & 7) Pursuant to Federal Rule of Civil Procedure 55(a), the clerk of a district court shall enter default against a party that "has failed to plead or otherwise defend as provided by [the Federal Rules of Civil Procedure]." Fed. R. Civ. P. 55(a). The Clerk's Entry of Default was properly entered on April 15, 2014. Because Defendants have not appeared in this action by answering the complaint, filing defensive motions, or offering any response indicating an intent to defend, default judgment is warranted on Plaintiffs claim for Declaratory Judgment. Owners Ins. Co. v. James, 295 F. Supp. 2d 1354, 1360 (N.D. Ga. 2003) See also, Taylor v. Wachovia Mortg. Corp., 2009 WL 249353, 4 (N.D.Ga., 2009).

Accordingly, Plaintiffs' motion for default judgment against Defendants Revaz Chachanashvili Law Group, PLLC a/k/a RC Law Group, PLLC and Yaakov Shotkin is GRANTED. As the Plaintiffs allegations in its complaint are now deemed admitted by virtue of Defendants default, pursuant to Eagle Hosp. Physicians, LLC v. SRG Consulting, Inc., 561 F.3d 1298, 1307 (11th Cir. 2009), the Court DIRECTS the Clerk to enter a declaratory judgment in favor of the Plaintiff declaring the following:

1. That a real and actual controversy presently exists between the parties as contemplated pursuant to the provisions of 28 U.S.C. § 2201.

2. That Plaintiffs have not violated the Fair Debt Collection Practices Act as it relates to its collection against Defendant Yaakov Shotkin;
3. That on each communication made by Plaintiffs with Defendant, SHOTKIN, Plaintiffs acted in compliance with the Fair Debt Collections Practices Act.
4. That Plaintiff, Brett Borland is a licensed attorney and properly designated as such in his correspondence to Defendant Yaakov Shotkin;
5. That Plaintiffs' letter(s) do not violate the Fair Debt Collection Practices Act;
6. That Defendants did not conduct an appropriate investigation or due diligence prior to making its demand and threat of litigation upon Plaintiffs;
7. That Defendants did not conduct a reasonable inquiry into the facts and/or law before making its demand and threat of litigation upon Plaintiffs;
8. That Defendants knew or had constructive knowledge that the conduct complained of in Defendants February 6, 2014 correspondence, draft

complaint and/or the March 5, 2014 correspondence did not amount to an actionable claim under the Fair Debt Collection Practices Act;

9. That Defendants have attempted to obtain Property from Plaintiffs or deprive Plaintiffs of Property by improper and/or unlawful threat of litigation;

10. That Defendants acted in bad faith and for the purpose of harassment;

11. That Plaintiffs have procedures reasonably adopted to avoid violations under the Fair Debt Collection Practices Act;

12. That Plaintiffs are entitled to an award of all Costs of Court and Reasonable Attorneys' fees against Defendants, jointly and severally.

B. Attorney's Fees and Court Costs.

The Fair Debt Collection Practices Act (FDPCA) allows for recovery of costs of the action, together with reasonable attorney's fees as determined by the court, particularly when bad faith and harassment is found. 15 U.S.C.A. § 1692k. The admitted facts demonstrate Defendants acted in bad faith and for the purpose of harassment when they mailed a letter accompanied by a draft complaint to Plaintiffs, in an effort to deprive Plaintiffs of property by improper threat of litigation, on alleged claims that Defendants knew or should have known have no basis in law or fact. The alleged conduct in Defendants' February 6, 2014 correspondence, draft complaint and/or the March 5, 2014 correspondence does not support a claim under the FDCPA. The allegations in the Plaintiffs' complaint have been admitted by operation of law and in addition to demonstrating bad faith, they show that Defendants did not conduct an appropriate investigation or due diligence or make a reasonable inquiry prior to making its demand and threat of litigation upon Plaintiffs.

Additionally, this Court is justified in awarding attorney's fees under the court's inherent power as bad faith of the Defendants has been demonstrated. *See* In re Mroz, 65 F.3d 1567, 1575 (11th Cir.1995). Barnes v. Dalton, 158 F.3d 1212, 1214 (11th Cir. 1998) As such, Plaintiff is entitled to Attorneys fees in the amount of $5,325.00 (i.e., 21.3 hours at $250.00 per hour). (Affidavit of John M. Duffoo). Given the Court's familiarity with attorney fee rates in the relevant legal community, the Court finds that the hourly rate is reasonable. Moreover, upon review of the billing summary attached to the Affidavit of John M. Duffoo, the Court finds that the time spent is also reasonable. Therefore, this Court finds that judgment should be entered against Defendants, jointly and severally, awarding Plaintiffs attorney's fees in the amount of $5,325.00 and court costs in the amount of $494.00.

III. Conclusion

For the Forgoing reasons, the court hereby:

(1) GRANTS Plaintiffs' Motion for Default Judgment (Doc. 9) against Revaz Chachanashvili Law Group, PLLC a/k/a RC Law Group, PLLC and Yaakov Shotkin, Individually; and

(2) GRANTS Plaintiffs' Motion for Attorney's fees (Doc. 9) against Revaz Chachanashvili Law Group, PLLC a/k/a RC Law Group, PLLC and Yaakov Shotkin, Individually.

The Court's ruling on the above motions disposes of all issues pending in this case. Accordingly, the Clerk is DIRECTED to issue judgment in favor of the Plaintiffs and against the Defendants.

Finally, the Clerk is DIRECTED to enter a declaratory judgment in favor of the Plaintiffs as directed above and enter judgment for attorney's fees in the amount of $5,325.00 and costs of $494.00 against Defendants, jointly and severally.

SO ORDERED, this 21st day of April, 2014.

JUDGE, RICHARD W. STORY
UNITED STATES DISTRICT COURT